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DD/ST# 3419-69

Minutes of the Agency Contract Review Board

13 August 1969

PRESENT:



1. [] opened the meeting by making several announcements. These were:

a. The recent presentation on the Supersonic Transport was very well received. [] noted that the approach taken to recoup government money inputs through a system of royalties on future sales may well establish the pattern for other large scale R&D efforts.

b. The next meeting of the ACRB, scheduled for 20 August 1969, will be devoted to a general briefing on the [] program. [] will present this briefing.

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c. [] suggested that the board authorize him to send a letter of appreciation to [] who has now retired. [] prior to his retirement was the ICAD advisor to the board. All board members attending concurred in this action.

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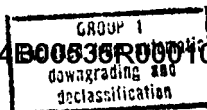
d. [] has been approved as the alternate DD/S representative to the ACRB vice [] who has been selected for attendance at ICAF. The board desired that a letter of appreciation be sent to []

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e. A schedule has now been established for the annual review of the individual procurement teams. The DD/P team will be visited this month, the OEL team during September, the ORD team in October, and the NPIC team during November. The individual members of the board had no objection to these reviews but were unanimous in their belief that this was actually a SA/DL function. [] read the applicable segment of the Board Charter and a

Declassification Review by NGA

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discussion followed but the Board still felt the review should be under the auspices of the Director of Logistics. The Board also desired to know why Procurement Division/OL was not to be surveyed. Although no answer was given to this question, it was noted that the Chief, Procurement Division/OL was assigned directly to the Director of Logistics.

25X1 2. [] next presented a briefing on contract negotiations. He concluded by suggesting that those individual members who had not done so might find it interesting to attend a negotiation within their own directorates.

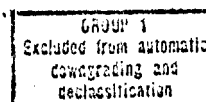
25X1 3. [] gave the first in a series of continuing status reports on projects now under way under auspices of the ACRB. Briefly these are:

a. Patents and Rights in Data. As the first step toward setting up a more adequate central control over Agency patent activities, it is necessary that everyone concerned have a firm grasp of the subject. To this end 25X1 [] presented a briefing on the background of the existing U. S. Government Patent Policy. A summary of this briefing will be provided to each board member and advisor as a separate action. (See attachment.)

b. Increasing R&D Costs. [] informed the board that this 25X1 particular subject had been given special emphasis by a proposed re-issuance of [] covering project approval and control. As 25X1 proposed, this regulation requires that all contractual actions, including amendments, which will result in the expenditure of funds exceeding [] over a three year period, must be submitted to the Executive Director-Comptroller level for approval. This of course means that project components must analyse, to a greater extent than heretofore, their anticipated expenditures for R&D activities. One productive step which has already been taken was the preparation of an excellent position paper by [] In addition to this 25X1 paper we must also explore, and compensate for, a drastic annual increase in the indirect cost area. [] will continue to work on this subject with 25X1 []

c. Overruns. This subject is also affected by the proposed headquarters regulation mentioned above, as it will be necessary to include any costs resulting from overruns in the approval exercise by [] The group entered into a 25X1 rather detailed discussion of the existing Agency policy which at present charges contractors with overrun culpability when in fact such conditions usually are changes in scope. An excellent example of this involves the recent [] case 25X1 which is discussed below. As a result of the discussion the board concurred in an in depth study of the [] case which, hopefully, will result in a standard Agency policy with respect to overruns vis-a-vis changes in scope.

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d. Contract Security. Here again a paper written by [] was the basis for the group discussion. [] believes that a great deal of confusion exists within the Agency inasmuch as we attempt to correlate security classification with degree of sterility required for Agency contracts. There was more or less general agreement that the existing policy could be simplified. No action can be taken in this matter until the return of [] who is the designated security advisor to the board.

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4. [] next discussed several cases previously reviewed by the board which, according to board records, still involved unfinished action. These were:

a. A letter contract issued to [] expires on 22 August 1969. When asked, [] stated that the contractor is now preparing a cost proposal which should be received shortly after 22 August 1969. This means however that the letter contract will have to be extended for a short period of time.

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b. The board has not yet seen the subcontract mentioned in the [] This will be followed up by []

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c. The board was supposed to have received a report concerning ORD equipment in the possession of [] [] stated that this matter has been covered in the contract itself.

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d. The board has not been provided with the [] [] contract for proposed review. [] will follow up on this matter.

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e. In its approval of the [] mention was made that the board did not wish to review the negotiation but that the Director of Logistics did. [] will take the action necessary to review this contract.

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5. There were three new cases presented for board consideration.

a. [] This case involves a contractor proposal totaling [] There are actually [] approved for this project but the difference will be held in advance pending the outcome of this negotiation. The contract itself represents a follow on effort under the [] project. As this is an extremely sensitive undertaking no discussion will be presented in these minutes. The board did however, with the exception of the DD/I representative, desire to see the contract as finally negotiated.

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GROUP 1
Excluded from automatic
downgrading and
declassification

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b. [REDACTED]

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[REDACTED] During board discussion it developed that this proposal has not yet been approved by the DD/S&T and higher echelons. As a consequence the DD/S&T representative suggested that the case be withdrawn from any board consideration at this time and that no negotiation take place until such time that the project has been approved by the DD/S&T. This suggestion was concurred by the board and the case was withdrawn.

c. [REDACTED]

This case was presented to the board as a proposed review of an action previously approved by the Director of Logistics on 8 August 1969. This approval authorized an overrun of [REDACTED]

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[REDACTED] informed the board that he has now been advised that an additional overrun has been experienced by the contractor. As stated above, the [REDACTED] case is probably a classic example of the Agency's tendency to charge many defacto changes in scope against the contractor by identifying them as overruns. To assist in the development of this case in depth, [REDACTED] agreed to provide a fact paper on which the study will be developed.

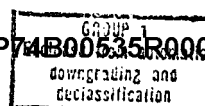
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[REDACTED]
Chairman
Agency Contract Review Board

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U. S. Government Patent Policy

1. The government spends tremendous sums of money in support of research and development (R&D). As the direct result of this effort many inventions and technical discoveries are developed. It is evident that some method must exist to insure that any such development is always available for government use without additional costs. Greater emphasis is placed on this concept when one considers that, in the absence of such control, the possibility exists that we may pay for an invention or technical discovery twice. As the first step toward the establishment of an adequate Agency patent control system, it may be well to develop a common understanding of the existing government policy. Briefly this policy places potential patents into three groupings. These are:

a. Category I. Normally any patents or potential patents falling within this category will become the sole property of the government. As a general rule invention or break throughs involving new commercial products, processes or methods of value to the general public, or which result from a contractors operation of government owned R&D facility, will fall into this category.

b. Category II. Inventions deriving from existing knowledge by a contractor who has developed an acknowledged reputation in the commercial sector in the area in question, will normally fall in this group. In this instance the government attempts to obtain a world wide royalty free license to utilize the invention as it sees fit, including procurements.

c. Category III. This group is intended to be a holding category for those inventions which cannot be identified as belonging in Categories I or II. Here again the government attempts to acquire a royalty free, world wide license.

2. The information presented above will become the basis for the establishment of a current Agency policy which will be controlling over all Directorates.

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